

# UNITED STATES DISTRICT COURT

for the

Igor Y. Goretskiy  
*Petitioner*

v.

Case No. \_\_\_\_\_  
*(Supplied by Clerk of Court)*

Joseph D. McDonald, Sheriff  
*Respondent*  
*(name of warden or authorized person having custody of petitioner)*

## PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

### Personal Information

1. (a) Your full name: Igor Yakovlevich Goretskiy  
 (b) Other names you have used: n/a
2. Place of confinement:  
 (a) Name of institution: Plymouth County Correctional Facility  
 (b) Address: 26 Long pond Road  
Plymouth, Mass 02360  
 (c) Your identification number: 72493 A-071199158
3. Are you currently being held on orders by:  
☒ Federal authorities      ☐ State authorities      ☐ Other - explain: \_\_\_\_\_
4. Are you currently:  
☐ A pretrial detainee (waiting for trial on criminal charges)  
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime  
 If you are currently serving a sentence, provide:  
 (a) Name and location of court that sentenced you: \_\_\_\_\_  
 (b) Docket number of criminal case: \_\_\_\_\_  
 (c) Date of sentencing: \_\_\_\_\_  
☒ Being held on an immigration charge  
☐ Other (explain): \_\_\_\_\_

### Decision or Action You Are Challenging

5. What are you challenging in this petition:  
☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

☐ Pretrial detention☒ Immigration detention☐ Detainer☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)☐ Disciplinary proceedings☐ Other (explain): \_\_\_\_\_

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: U.S. Department of Homeland security  
HQCMU I.C.E. 500 12th st. SW Washington, DC. 20536(b) Docket number, case number, or opinion number: A- 071 199 158

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

I am challenging my 180 days review decition that was ordered on  
my behalf. After my 180 days of full cooperation with my depor-  
tation, I.C.E. is still holding me in jail.(d) Date of the decision or action: December, 2020**Your Earlier Challenges of the Decision or Action**7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☒ Yes☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: U.S. Department of Homeland Security  
I.C.E. (HQCMU) 500 12th st. SW Wasington, DC. 20536(2) Date of filing: November, 2020(3) Docket number, case number, or opinion number: A- 071 199 158(4) Result: No results as of yet, but still in detention.

(5) Date of result: \_\_\_\_\_

(6) Issues raised: Six months should be enough to eighther deport  
me, or let me out on supervision. Why still in detention  
after fully coporating with my deportation?

(b) If you answered "No," explain why you did not appeal: \_\_\_\_\_

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not file a second appeal: Time was of  
the most importance in this COVID-19 seson.9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Docket number, case number, or opinion number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

(b) If you answered "No," explain why you did not file a third appeal: \_\_\_\_\_

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes☐ No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Date of filing: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Date of filing: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: \_\_\_\_\_

# 11. Appeals of immigration proceedings

Does this case concern immigration proceedings?

☒ Yes

☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: February, 2019

(b) Date of the removal or reinstatement order: June 4th 2020

(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes

☒ No



If "Yes," provide:

(1) Date of filing: \_\_\_\_\_

(2) Case number: \_\_\_\_\_

(3) Result: \_\_\_\_\_

(4) Date of result: \_\_\_\_\_

(5) Issues raised: \_\_\_\_\_

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes

☒ No

If "Yes," provide:

(1) Name of court: \_\_\_\_\_

(2) Date of filing: \_\_\_\_\_

(3) Case number: \_\_\_\_\_

(4) Result: \_\_\_\_\_

(5) Date of result: \_\_\_\_\_

(6) Issues raised: \_\_\_\_\_

## 12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: \_\_\_\_\_

(b) Name of the authority, agency, or court: \_\_\_\_\_

(c) Date of filing: \_\_\_\_\_

(d) Docket number, case number, or opinion number: \_\_\_\_\_

(e) Result: \_\_\_\_\_

(f) Date of result: \_\_\_\_\_

(g) Issues raised: \_\_\_\_\_

**Grounds for Your Challenge in This Petition**

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

**GROUND ONE:** Statutory Violation

(a) Supporting facts (*Be brief. Do not cite cases or law.*): Petitioners continued detention by the Respondent violates 8 U.S.C. 1231(a)(6), as interpreted in 'Zadvydas'. Petitioners six-month presumptively reasonable period for continued removal efforts passed in Dec. 4th 2020. The Supreme Court held in Zadvydas that the continued detention of someone after six months where deportaion is not reasonably foreseeable is unreasonable and in violation of 8 U.S.C 1231(a). 533 U.S. at 701.

(b) Did you present Ground One in all appeals that were available to you?

☒ Yes

☐ No

**GROUND TWO:** Substantive Due Process Violation

(a) Supporting facts (*Be brief. Do not cite cases or law.*): Petitioners continued detention violates his right to substantive due process by depriving him of his core liberty interest to be free from bodily restraint. See, e.g., Tam v. INS, 14 F.Supp.2d 1184 (E.D. Cal 1998) (aliens retain substantive due process rights.) The Due process Clause requires that the deprivation of petitioners liberty be narrowly tailored to serve a compelling government interest. see Reno v Flores, 507 U.S. 292, 301-02 (1993)

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

**GROUND THREE:** Procedural Due process Violation

(a) Supporting facts (*Be brief. Do not cite cases or law.*): Under the Due Process Clause of the United States Constitution, an alien is entitled to a timely and meaningful opportunity to demonstrate that he should not be detained. The Petitioner in this case has been denied that opportunity as there is no administrative mechanism in place for the petitioner to demand a decision, ensure that a decision will ever be made, or appeal a custody decision that violates Zadvydas.

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☒ No

**GROUND FOUR:** COVID-19 Risk Factor

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Fraihat v. I.C.E.

(b) Did you present Ground Four in all appeals that were available to you?

☒ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

**Request for Relief**

15. State exactly what you want the court to do: petitioner prays that this Court grant me relief by releasing me under supervision, or deport me back to my country of origen.

**Declaration Under Penalty Of Perjury**

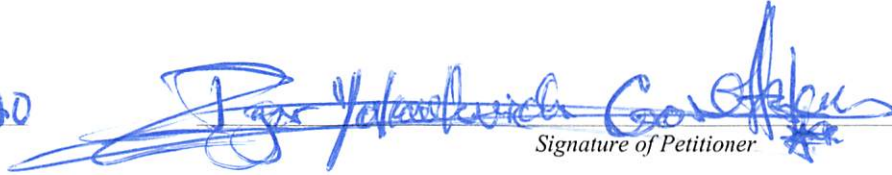
If you are incarcerated, on what date did you place this petition in the prison mail system:

December 19th 2020

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

Dec. 19th, 2020



Signature of Petitioner

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Signature of Attorney or other authorized person, if any